

Applicant: Rudnick et al.
Application Serial No.: 10/775,536
Filing Date: February 10, 2004
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REMARKS

The application has been amended. Claim 1 has been amended and claim 37 has been canceled. Entry of this amendment and reconsideration is respectfully requested.

The present invention as set forth in amended claim 1 is directed to an intraluminal device for implantation into a body lumen. The device includes a stent and a cover disposed over the stent. The stent is formed of a helically wound wire which defines a plurality of wire waves. The wire waves are longitudinally nested along the length of the stent to reduce the space between the wire waves so as to inhibit tissue ingrowth between the waves. The lumen contacting cover extends along the length of the stent further inhibiting tissue ingrowth therethrough.

Claim 26 stands rejected under 35 U.S.C. §102(b) as anticipated by U.S. Patent No. 2,780,274 to Roberts et al. (hereinafter "Roberts").

The Roberts reference is directed to a rubber radiator hose having a metallic reinforcing member therein. Applicant has and continues to contend that the Roberts reference is not analogous art with respect to the implantable medical stent of the present invention. In an effort to more fully distinguish the present invention from the Roberts reference, claim 26 has been

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amended to recite that the intraluminal device of the present invention is implantable into a body lumen. Moreover, the cover of the present invention is a lumen contacting cover. None of these features are disclosed or contemplated by the Roberts references which is a radiator hose used to make connections in an internal combustion engine cooling system. Accordingly, it is respectfully submitted that the Roberts reference is not applicable against the claims of the present invention.

Assuming, *arguendo*, that the Roberts reference is analogous art, which it is not, Roberts still fails to disclose, teach or suggest the claims of the present invention. The Roberts rubber radiator hose employs a reinforcing member 23, as shown in Figure 10, which is placed within the radiator hose, as shown in Figure 13. Roberts describes that several wire bands of the type shown in Figure 10 may be positioned side-by-side with the zigzag portions nested to provide additional reinforcement. However, as it relates to claim 26, Roberts fails to show a stent formed of a helically wound wire defining a plurality of wire waves which are longitudinally nested to reduce the space between the wire waves. Accordingly, Roberts is not anticipatory of the claims of the present invention.

Moreover, one skilled in the art would not find the invention of claim 26 to be obvious inasmuch as one skilled in the art of medical devices would not look to the radiator hose art in designing an intraluminal device. The stent of the present invention is designed to prevent tissue

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ingrowth through the stent and, therefore, forms a helically wound wire into a plurality of nested wire waves. Roberts provides a plurality of reinforcing members, each separate and distinct, to hold open a rubber radiator hose. It is respectfully submitted that the invention set forth in claim 26 would not be obvious in view of the Roberts reference. Accordingly, claim 26 and the claims which depend therefrom are believed to be patentably distinct over Roberts.

Claim 26 also stands rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,554,181 to Das in view of U.S. Patent No. 5,330,500 to Song.

Referring to the Das reference, a wire stent is disclosed where the wire stent has a plurality of undulating waves. However, none of the various embodiments disclosed in Das show the nesting of the wire waves in a manner disclosed and claimed in the present invention. Furthermore, the arrangement of the waves shown in Das is not designed to inhibit tissue ingrowth through the stent. As clearly described in Das, the purpose of the stent construction disclosed therein is to maintain patency of the lumen into which it is implanted. Das, therefore, fails to disclose, teach or suggest an intraluminal stent having longitudinally nested wire waves which reduce the space between the wire waves to inhibit tissue ingrowth therebetween.

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Furthermore, the Song reference is cited merely for its disclosure of a cover. With respect to the limitation of claim 26 directed to the nested wire waves, Song fails to show such an arrangement. Therefore, claim 26 is submitted as being patentably distinct over the combination of Das and Song.

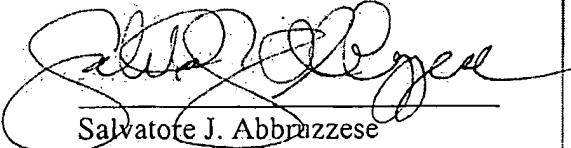
Having responded in full to the present Office Action, it is respectfully submitted that the application, including claims 26-36, is in condition for allowance. Entry of this amendment and favorable action on the application is respectfully requested.

The Commissioner is hereby authorized to charge payment of any additional fees associated with this communication, or credit any overpayment, to Deposit Account No. 08-2461. Such authorization includes authorization to charge fees for extensions of time, if any, under 37 C.F.R § 1.17 and also should be treated as a constructive petition for an extension of time in this reply or any future reply pursuant to 37 C.F.R. § 1.136.

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Should the Examiner have any questions regarding this response, the undersigned would be pleased to address them by telephone.

Respectfully submitted,



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